



Public Knowledge

November 10, 2010

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: GN Docket No. 10-127, Framework for Broadband Internet Service; GN Docket No. 09-191, Preserving the Open Internet; WC Docket No. 07-52, Broadband Industry Practices; MB Docket No. 10-56, Application of Comcast Corporation, General Electric Company, and NBC Universal, Inc. for Consent to Assign License or Transfer Control of Licensees; WT Docket No. 08-7, Petition for Declaratory Ruling that Text Messaging and Short Codes are Title II Services or Title I Services Subject to Section 202 Non-Discrimination Rules.

Dear Ms. Dortch:

On November 9, 2010, Harold Feld, Legal Director of Public Knowledge (PK) and I met with Zac Katz, Legal Advisor to Chairman Genachowski. This notice is submitted in compliance with Section 1.1206(b) of the Commission's Rules.

Mr. Feld and I urged that the Commission complete its inquiry into the agency's authority to regulate broadband Internet access before the end of 2010. As it has stated in its comments, PK believes that the FCC will be on the firmest legal ground to address broadband issues related to public safety, Universal Service, Lifeline/Linkup and other priorities in the National Broadband Plan if it classifies broadband Internet access as a telecommunications service under Title II of the Communications Act.

We also urged that the Commission simultaneously complete its open Internet rulemaking proceeding and argued that the Commission has the authority to adopt open Internet rules under Title I, III and VI of the Communications Act. Ms. Sohn reiterated PK's position on open Internet rules, *i.e.*, wireline broadband Internet access providers should be subject to a nondiscrimination requirement with a presumption against paid prioritization; and wireless Internet access providers, should, at minimum, be prohibited from blocking all content and applications, followed by a time-limited or technological glide path to the application of full non-discrimination rules. Mr. Feld said that Public Knowledge agreed with the National Cable & Telecommunications Association's recent comments in the open Internet rulemaking docket that wireless and wireline broadband access services should not be subject to different rules.

Mr. Feld and I briefly discussed Public Knowledge's desire to see conditions on the proposed Comcast-NBC Universal merger that would allow for the nascent "over-the-top" video (OTTV) industry to grow and thrive. While OTTV is not yet a substitute for subscription TV, our concern is that this merger would give the combined entity the incentive and ability to destroy OTTV before it becomes a real competitor to subscription TV. We made it clear that while this issue has been the focus of Public Knowledge's opposition to the proposed merger, it is by no means the only problem with it.

Finally, we advocated that the Commission grant Public Knowledge's nearly three-year old petition to classify text messages and short codes under Title II of the Communications Act. Mr. Feld emphasized that the system by which wireless carriers manage short codes has grown to such an extent that it can no longer operate properly in the absence of rules of the road. By refusing to grant Public Knowledge's petition, the Commission is risking 1) losing control over this issue as parties who have had short codes blocked by wireless carriers take their grievances to court; and 2) that a wireless carrier will block a short code in a situation that could have serious consequences to those unable to receive the intended text message.

Sincerely,



Gigi B. Sohn
President

cc. Zac Katz